

Federal Communications Commission

DA 04-1025

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Before the
Federal Communications Commission
Georgia, D.C. 20554

In the Matter of

Amendment of Section 73.202(b),
Table of Allotments,
FM Broadcast Stations.
(Ocilla and Ambrose, Georgia)

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MB Docket No. 03-246
RM-10830

REPORT AND ORDER
(Proceeding Terminated)

Adopted: April 14, 2004**Released: April 19, 2004**

By the Assistant Chief, Audio Division:

1. The Audio Division issued a *Notice of Proposed Rulemaking* in response to a petition for rule making filed by RTG Radio, LLC ("petitioner"), licensee of FM Station WKAA, Channel 249A, Ocilla, Georgia.¹ The *Notice* proposes to substitute Channel 250A for Channel 249A, to change the community of license from Ocilla to Ambrose, Georgia, and to modify the license for FM Station WKAA accordingly. Petitioner's request was filed pursuant to the provisions of Section 1.420(i) of the Commission's Rules, which permits the modification of a station's authorization to specify a new community of license without affording other interested parties the opportunity to file competing expressions of interest in the proposed allotment. Petitioner filed comments supporting the changes proposed in the *Notice*. No other comments were received in response to the *Notice*.

2. Petitioner has established that Ambrose is a community for purposes of our allotment policies. Ambrose is an incorporated city with a 2000 Census population of 313 persons. Petitioner has stated that Ambrose has its own branch post office, ZIP code (31512), elementary school ("Ambrose School"), and public library ("Ambrose Public Library"). Ambrose is governed by a mayor and city council, provides its residents with municipal services, and there are several churches and business establishments that identify themselves by incorporating "Ambrose" in their names. The requested reallocation would provide Ambrose with a first local aural broadcast service.

3. Neither Ocilla nor Ambrose is located in an urbanized area. The existing 70 dBu signal for Channel 249A at Ocilla does not cover any portion of an urbanized area, nor does the 70 dBu contour of proposed Channel 250A at Ambrose. Under the circumstances, no *Tuck* analysis is necessary to evaluate this change of community proposal.²

¹ *Ocilla and Ambrose, Georgia*, 18 FCC Rcd 25,611 (MB 2003)

² See *Faye and Richard Tuck*, 3 FCC Rcd 5374 (1988).

4. No white or gray areas (priorities one and two under the Commission's allotment priorities)³ would result from adoption of the proposals advanced in this proceeding. The change of community would produce a net loss of 20,254 persons and neither gain nor loss in the land area served. Both the loss and gain areas are and would continue to be served by at least five other existing services, and thus, they are both well-served areas.

5. If Channel 250A is reallocated to Ambrose as requested, Ocilla will continue to receive local service from FM Station WLPF, Channel 253A. Retention of Channel 249A at Ocilla thus would constitute only a priority level four, while allotment of Channel 250A as a first local service at Ambrose satisfies the standards for priority level three. For that reason, we conclude that the public interest would be served by substituting Channel 250A for Channel 249A at Ocilla, Georgia, and reallocating Channel 250A at Ambrose, Georgia. Channel 250A can be allotted to Ambrose in compliance with the minimum distance separation requirements of the Commission's Rules with a site restriction of 13.4 kilometers (8.3 miles) southeast of Ambrose at coordinates 31-30-36 NL and 82-54-48 WL.

6. Accordingly, pursuant to the authority contained in Sections 4(i), 5(c)(1), 303(g) and (r) and 307(b) of the Communications Act of 1934, as amended, and Sections 0.61, 0.204(b), 0.283, and 1.420(i) of the Commission's Rules, IT IS ORDERED, That effective June 4, 2004, the FM Table of Allotments, Section 73.202(b) of the Commission's Rules, IS AMENDED as follows:

Community	Channel Number
Ambrose, Georgia	250A
Ocilla, Georgia	253A

7. IT IS FURTHER ORDERED, pursuant to Section 316(a) of the Communications Act of 1934, as amended, that the license of RTG Radio, LLC, for FM Station WKAA, IS MODIFIED to specify operation on Channel 250A at Ambrose, Georgia, subject to the following conditions:

(a) Within 90 days of the effective date of the Order, the licensee of FM Station WKAA shall submit to the Commission a minor change application for a construction permit (Form 301), specifying the new facility;

(b) Upon grant of the construction permit, program tests may be conducted in accordance with Section 73.1620; and

³ *Revision of FM Assignment Policies and Procedures*, 90 FCC 2d 88 (1982), *recon. denied*, 56 RR 2d 448 (1983). The FM allotment priorities are: (1) first full-time aural service; (2) second full-time aural service; (3) first local service; and (4) other public interest matters. Co-equal weight is given to priorities (2) and (3).

(c) Nothing contained herein shall be construed to authorize a change in transmitter location or to avoid the necessity of filing an environmental assessment pursuant to Section 1.1307 of the Commission's Rules, unless the proposed facilities are categorically excluded from environmental processing.

8. Pursuant to Commission Rule Section 1.1104(1)(k) and (3)(l), any party seeking a change in community of license of a TV or FM allotment or an upgrade of an existing FM allotment, if the request is granted, must submit a rule making fee when filing its application to implement the change in community of license and/or upgrade. As a result of this proceeding, RTG Radio, LLC, licensee of FM Station WKAA, is required to submit a rule making fee in addition to the fee required for the applications to effectuate the changes specified above.

9. IT IS FURTHER ORDERED, That the Secretary of the Commission shall send by Certified Mail Return Receipt Requested, a copy of this *Report and Order* to the following:

David G. O'Neil
Rini Coran, PC
1501 M Street, N.W., Suite 1150
Washington, D.C. 20005
(Counsel for RTG Radio, LLC)

10. IT IS FURTHER ORDERED, That this proceeding IS TERMINATED.

11. For further information concerning this proceeding, contact Deborah Dupont, Media Bureau, (202) 418-2180.

FEDERAL COMMUNICATIONS COMMISSION

John A. Karousos
Assistant Chief, Audio Division
Media Bureau